

Honorable George A. O'Toole  
United States District Judge  
United States District Court  
District of Massachusetts  
John J. Moakley Courthouse  
One Courthouse Way  
Boston, MA 02210

October 3, 2004

RE: Civil Action No. 04-40068-GAO  
Potts v Winn  
Petition for Writ of Habeas Corpus

Dear Judge O'Toole:

On September 16, 2004 the Respondent (Winn) declared through his counsel that he "hereby assents to the Petitioner's Motion for Leave." (Respondent's Assent to Petitioner's Motion for Leave - Docket# 11 9/16/04, Petitioner's Motion for Leave - Docket# 9 and #10 9/14/04)

Assistant United States Attorney Donato further stated..."at this time the Goldings decision reflects the law of this Circuit and is dispositive of this case in this Court." (Goldings refers to Morris M. Goldings v David L. Winn and John Ashcroft \_\_F3d\_\_ (1st Cir.2004) Appeals No. 03-2633, "this case" refers to Potts v Winn)

The Government has on 9/27/04 advised the Court in two other cases in this Circuit with similar issues of law and fact as the Petitioner's..."that the Solicitor General has determined not to file a petition for rehearing or rehearing en banc" in the Goldings v Winn and Ashcroft matter. (See Attachment A and B)

None of the parties to this action has requested a hearing; the parties have filed all of the required pleadings and briefs; and there are no outstanding issues other than a Judgment and Order being issued by the Court in favor of the Petitioner.

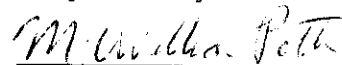
It is requested that the Court dispose of the matter as law and justice require, and proceed to Grant the Petitioner relief as requested in the Motion for Leave (Docket# 9) as promptly as possible.

This Petition for Writ of Habeas Corpus is time sensitive and with the passage of time the relief requested may diminish or possibly become moot.

cc: Christopher R. Donato  
Assistant United States Attorney

Mr. Paul Lyness  
Court Clerk-Judge O'Toole

Respectfully Submitted,

  
M. William Potts, Pro Se  
#24866-038 Unit I  
FMC Devens  
PO Box 879  
Ayer, MA 01432

Attachment A - Pg. 1



U.S. Department of Justice

*Michael J. Sullivan*  
*United States Attorney*  
*District of Massachusetts*

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John Joseph Moakley United States Courthouse  
1 Courthouse Way - Suite 9200  
Boston, Massachusetts 02210

September 27, 2004

Richard Cushing Donovan, Clerk  
United States Court of Appeals  
For the First Circuit  
U.S. Courthouse - Suite 2500  
1 Courthouse Way  
Boston, MA 02210

Re: Morris M. Goldings v. David L. Winn and John Ashcroft  
Appeals Court No. 03-2633

Dear Mr. Donovan:

In the above-referenced case the appellant Morris Goldings moved for immediate issuance of mandate; the government opposed the motion; and the Court on September 23, 2004, stated that it would issue mandate on October 1, 2004, unless by then the government filed a petition for rehearing or rehearing en banc.

This will advise the Court that the Solicitor General has determined not to file a petition for rehearing or rehearing en banc. Therefore the defendants-appellees now have no objection to immediate issuance of mandate.

I am informed that Bureau of Prisons staff at Federal Medical Center, Devens, have been instructed promptly to commence re-evaluation of Mr. Goldings for placement

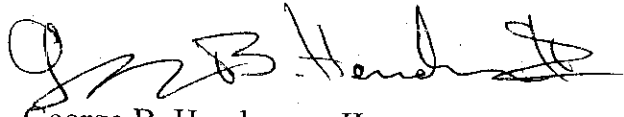
Attachment A - Pg 2

Richard Cushing Donovan, Clerk  
September 27, 2004  
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in a community correction center under the relevant Bureau of Prisons policy as it existed before the December 2002 change of policy that prompted this law suit.

Very truly yours,

MICHAEL J. SULLIVAN  
United States Attorney

A handwritten signature in dark ink, appearing to read "George B. Henderson, II". The signature is fluid and cursive, with a large initial "G" and "B".

George B. Henderson, II  
Assistant U.S. Attorney  
(617) 748-3282

cc: Morris M. Goldings  
David L. Winn, Warden  
Patrick Ward, Esq.

Attachment B - Pg. 1

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

KARAMJEET S. PAUL,

Petitioner,

v.

DAVID L. WINN, Warden, Federal Medical  
Center, Devens,

Respondent.

Civil Action No. 04-CV-40037-RCL

**RESPONDENT'S NOTICE TO THE COURT  
REGARDING THE COURT'S PROCEDURAL ORDER OF SEPTEMBER 15, 2004,  
AND REPLY TO PETITIONER'S PARTIAL OBJECTION AND REQUEST  
TO CORRECT THE MAGISTRATE'S REFERENCE TO THE RELIEF REQUESTED**

On September 27, 2004, undersigned counsel for the Respondent was notified that the Solicitor General of the United States will not seek Rehearing En Banc before the Court of Appeals for the First Circuit of that Court's holding in Goldings v. Winn, \_\_\_ F.3d \_\_\_, 2004 WL 2005625 (1<sup>st</sup> Cir. September 3, 2004), pursuant to Fed. R App. P. 40(a)(1) and 35(c). Therefore, Respondent has no grounds to object to this Court's view of what the Petitioner is entitled to under Goldings v. Winn, as explained in this Court's Procedural Order of September 15, 2004.

The Bureau of Prisons, through Respondent Warden Winn, is aware of Petitioner's status and will act promptly and in good faith to reconsider Petitioner for placement into a CCC, consistent with the BOP policy and practice of FMC Devens prior to the December 2002 policy change, which limited such placements to the last 10% of a sentence.

The Respondent concurs with this Court's reading of Goldings v. Winn as it apply's to

Attachment B - Pg. 2

the Petitioner in this action, and does not believe that any correction to this Court's Procedural Order is required as requested by the Petitioner.

Respectfully submitted,

For the Respondent  
DAVID L. WINN

MICHAEL J. SULLIVAN  
United States Attorney

By: /s/ Anton P. Giedt  
Anton P. Giedt  
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617-748-3971 (Fax)  
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BBO No.: 563928

DATED: September 28, 2004

**LOCAL RULE 7.1(A)(2) CERTIFICATE**

I, Anton P. Giedt, Assistant U.S. Attorney, respectfully request leave from compliance with Local Rule 7.1(A)(2) as Petitioner is incarcerated, acting *pro se*, and is not represented by counsel.

/s/ Anton P. Giedt  
Anton P. Giedt  
Assistant U.S. Attorney

**CERTIFICATE OF SERVICE**

Suffolk, ss.

Boston, Massachusetts  
DATE: September 28, 2004

I, Anton P. Giedt, Assistant U.S. Attorney, do hereby certify that I have this day served a copy of the foregoing upon the Petitioner by First Class Mail.

/s/ Anton P. Giedt  
Anton P. Giedt  
Assistant U.S. Attorney

**PETITIONER:**  
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Prisoner Mail  
38516-060 Unit I  
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**AGENCY COUNSEL:**  
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